

Reviewed and Approved by the Executive Director:

da

November 18, 2021

FOR ACTION

I. REQUEST

Approve a Rental Housing Revolving Fund Project Award for the Kaiāulu o Kūku'ia Apartments Project Located in Lahaina, Maui, TMK No.: (2) 4-5-021: 041 (por.)

II. FACTS

Project Information:

<i>Project Name:</i>	Kaiāulu o Kūku'ia Apartments		
<i>Applicant:</i>	A0703 West Maui, L.P.		
<i>TMK and Location:</i>	TMK No.: (2) 4-5-021: 041 near Keawe Street – part of the Villages of Leiali'i Lahaina, HI 96761		
<i>Land Tenure:</i>	Leasehold Fee Owner: State of Hawaii – HHFDC		
<i>Project Type:</i>	New Building		
<i>Target Population:</i>	Family		
<i>Length of Affordability:</i>	65 Years		
	10 units @ 30% AMGI 10 units @ 40% AMGI 30 units @ 50% AMGI 147 units @ 60% AMGI 3 Manager Units <hr/> 200 Total Units		
<i>Projected Unit and Rent Mix:</i>	<i>Units</i>	<i>Unit Type</i>	<i>Rent / Mo.*</i>
	5	2-Bedroom	\$561
	5	2-Bedroom	\$794
	15	2-Bedroom	\$1,026
	75	2-Bedroom	\$1,259
	4	3-Bedroom	\$629
	4	3-Bedroom	\$898
	11	3-Bedroom	\$1,167
	53	3-Bedroom	\$1,435
	1	4-Bedroom	\$681
	1	4-Bedroom	\$981
	4	4-Bedroom	\$1,280
	19	4-Bedroom	\$1,580
	3	3-Bedroom Manager's Unit	N/A
			*Net of Utility Allowance
<i>Estimated Completion:</i>	First Building – January 2024 Project Completion (Last Building) – March 2024		

<i>Type of Construction:</i>	Twenty-five (25) two-story residential buildings with eight units in each building and two (2) community buildings. The construction will consist of reinforced concrete slab on grade foundation with light gauge metal or wood framing and a shingles over plywood sheathing roof.
<i>Amenities and Services:</i>	Project Amenities: playground/tot lot, picnic area, community meeting room, laundry room, and bike racks. Unit Amenities: range, refrigerator, dishwasher, and disposal.
<i>Floor Area:</i>	209,625 sq. ft. Residential Area <u>15,000 sq. ft. Common Area</u> 224,625 sq. ft. Total
<i>Developer:</i>	A0703 West Maui, L.P. Contact – Mr. Douglas Bigley 2000 E. 4 th Street, Suite 220 Santa Ana, CA 92705 (323) 351-7700
<i>Contractor:</i>	To be determined
<i>Property Manager:</i>	ThirtyOne50 Management Contact – Kyle Beach 555 Kaiwaihine Street Kihei, HI 96753 (808) 206-9322

- A. The Rental Housing Revolving Fund (RHRF) Project Award program provides “Equity Gap” low interest loans to qualified owners and developers constructing, acquiring, or rehabilitating affordable rental housing units. (NOTE: Pursuant to Act 237, SLH 2015, the Rental Housing Trust Fund was reclassified as a Rental Housing Revolving Fund, effective July 14, 2015.)
- B. Pursuant to Act 150, Session Laws of Hawaii (SLH) 2018, the state legislature appropriated \$30,000,000 out of the Rental Housing Revolving Fund (RHRF) to expedite and complete construction of the Leialii affordable housing project, also known as Kaiāulu o Kūku’ia Apartments by 2021.
- C. Act 98, SLH 2019, amended Act 150 by increasing the appropriation from \$30,000,000 to \$37,000,000 to expedite and complete the Leialii affordable housing project by 2022; provided that if the project did not obtain necessary land use entitlements by April 30, 2020, the earmarked funds would be returned to the RHRF. On February 7, 2020, the Maui county council granted an exemption to HRS chapter 201H for the project, which satisfied the land use entitlement requirement of Act 98.
- D. Act 140, SLH 2021, amended Act 98 by removing the 2022 deadline for the completion of the Leialii affordable housing project and clarified that the developer would only be responsible for all associated costs of the archaeological inventory survey for the footprint of affordable housing project and would not be responsible for the cost of the archaeological inventory survey for the entire Villages of the Leialii master planned community.
- E. On April 16, 2020, A0703 West Maui, L.P. (Applicant) submitted a consolidated application, as amended on August 25, 2021, on behalf of Kaiāulu o Kūku’ia Apartments (Project) for:
 - 1. Tax-exempt issuance of \$83,625,000 from the HMMF Bond Program;

2. \$7,633,183 in annual Federal LIHTC over a 10-year period and \$7,633,183 in annual State LIHTC over a 5-year period from the non-volume cap pool (4% LIHTC); and
 3. A Rental Housing Revolving Fund (RHRF) Loan of up to \$37,000,000.
- F. A separate For Action is being presented at the November 18, 2021 HHFDC Board Meeting requesting: (i) intent to issue under the HMMF Bond Program and (ii) approval of 4% LIHTC for the Project.
- G. The RHRF Program's available funds as of October 31, 2021, are shown below:

RHRF Uncommitted Funds (HHFDC)	\$ 43,517,091
Appropriated – Act 88, SLH 2021 and Pending	
Infusion for HPHA School Street Redevelopment	<u>40,000,000</u>
Total RHRF Funds – HHFDC & Budget & Finance	<u>\$ 83,517,091</u>

III. DISCUSSION

- A. The Project is a proposed 200-unit (includes 3 manager units) affordable rental housing facility targeted for family households. Improvements consist of 25 two-story buildings with 8 units in each building and 2 community buildings. Off-site improvements include the construction of a new public road and pedestrian/bicycle pathway which will provide access to and from Keawe Street and a retention basin.
- B. The Applicant is a single-asset, real estate holding company, specifically established to develop, own, and operate the Project. The General Partners of the Applicant are NP Holdings LLC and FP Holdings LLC. The sole member of NP Holdings LLC is Ikaika Ohana, a 501(c)(3) corporation. The sole member of FP Holdings is UHC H4 LLC.
- C. Doug Bigley, David Bigley, and John Bigley are the officers of Ikaika Ohana and UHC H4 LLC. The Bigleys are experienced affordable housing developers with a concentration in California. Their most recent projects in Hawaii are the rehabilitation of Kamana Elderly and Riverside Apartments and the new construction of Hale Makana O Nanakuli, Kaiwahine Villages Phase I and II, the Villages of La'i'opua, Kaiaulu O Kupuohi, Kaiaulu O Waikoloa, Kaiaulu O Kapiolani, and Kaiaulu O Halelea Apartments Phase IA and IB.
- D. The proposed Financing Structure is as follows:

Source	Interim	Permanent
Sponsor Equity	\$ 0	\$ 0
LIHTC Equity	21,067,585	87,775,116
HMMF Bond	83,625,000	19,500,000
RHRF Loan	36,900,000	37,000,000
Deferred Developer Fee	7,206,415	5,724,884
Other Deferred Costs	1,201,000	0
Total	\$ 150,000,000	\$ 150,000,000

E. The proposed Project Budget and Use of Funds is as follows:

Budget/Cost Item	Amount	Per Square Foot	%
Acquisition	\$ 750,000	\$ 3.34	0.50
Construction – Sitework	30,600,000	136.23	20.40
Construction – Vertical	64,524,157	287.25	43.02
Construction – Contractor Profit	11,846,140	52.74	7.90
Interim & Soft Costs	7,875,702	35.06	5.25
Financing & Syndication Costs	11,812,524	52.59	7.87
Developer’s Fee	9,000,000	40.07	6.00
Developer’s Overhead	500,000	2.22	0.33
Project Reserves	1,201,000	5.35	.80
Contingency	11,890,477	52.93	7.93
Total	\$150,000,000	\$ 667.78	100.00

F. The Project’s estimated construction timeline is as follows:

1. Building Permits – October 22, 2021
2. Construction Start Date – March 2022
3. First Building Completion – January 2024
4. Project Completion (Last Building) – March 2024

G. Applicant’s Request (Loan Terms)

1. Loan Amount: \$37,000,000
2. Interest Rate: Years 1 through 3 – 0.00%
Years 4 through 62 – 0.25%
3. Loan Fee: None
4. Term/Maturity: 62 Years
5. Repayment: Years 1 through 3 – No Payments
Years 4 through 57 – 50% of net cash flow.
6. Collateral: Junior Mortgage on Project Site

H. Recommendation (Loan Terms)

1. Loan Amount: \$37,000,000
2. Interest Rate: Years 1 through 3 – 0.00%
After Year 3 – 0.25%
3. Loan Fee: None
4. Term/Maturity: 55 Years
3 Years – Interim/Construction Phase
52 Years – Permanent Phase
5. Repayment: Years 1 through 3 – No Payments
After Year 3 – 50% of Available Cash Flow after payment of expenses, senior debt service, and other recognized expenses.
6. Collateral: Junior Mortgage on the Project Site
7. Other Terms
 - a) The Project’s loan to value ratio (on the RHRF loan and all debt senior to the RHRF loan) shall not exceed 100%.
 - b) No disbursement of Developer’s Fee until satisfactory completion of the Project.
 - c) The RHRF Project Award is subject to the availability of funds.

IV. RECOMMENDATION

That the HHFDC Board of Directors approve the following:

- A. A RHRF Project Award Loan of \$37,000,000 to A0703 West Maui, L.P. for the benefit of the Kaiāulu o Kūku’ia Apartments Project, with the terms and conditions as shown in Section III.H of this For Action and in the Letter of Intent, subject to the following:
 1. Authorization and approval by the governor of the proposed project and the release of RHRF program funds as mandated under Chapter 15-311, Hawaii Administrative Rules.
 2. Execution of documentation satisfactory to the HHFDC outlining the terms and conditions of the Project Award. The documents shall specify the standard terms and conditions as required in order to meet all statutory requirements of the RHRF program and the specific terms and conditions that are applicable to the Applicant’s request for Project Award funds.

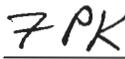
3. Completion of all documentation necessary and required to secure the release of RHRF funds.
4. Certification of the Applicant to comply with all applicable statutory and Program requirements, including, but not limited to, Chapters 343, 103D, and 104, and §103-50, Hawaii Revised Statutes, as they may relate to the use of State funds.
5. Total fees paid to the Developer for the Project, including, but not limited to, Developer Overhead, Developer Fees, Consultant Fees, and Project management Fees, shall not exceed \$9,500,000.

B. Authorize the Executive Director to undertake all tasks necessary to effectuate the purposes of this For Action.

Attachments: Exhibit A – Financing Summary
 Exhibit B – Project Location Map and Pictures
 Exhibit C – Letter of Intent (Draft)

Prepared by: Sun-Ik Ham, Finance Specialist 

Reviewed by: Christopher Oakes, Finance Specialist II 

Reviewed by: for Darren K. Ueki, Finance Manager 

Approved by The Board of Directors at its meeting
on NOVEMBER 18, 2021
FINANCE BRANCH
Please take necessary action.

EXECUTIVE DIRECTOR

HHFDC FINANCING:

LIHTC REQUEST: (per unit)	Federal:	\$7,633,183	State:	\$7,633,183
	(over 10-years)	\$38,747	(over 5-years)	\$38,747

RHRF REQUEST:	Up To:	\$37,000,000
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HMMF REQUEST:	Up To:	\$83,625,000
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SITE WORK COST (NEW BUILDING):	Total:	Per Unit:	PSF:	PSF Avg:*
	\$30,600,000	\$153,000	\$136.23	Avg.: \$40.84 Low: \$0.00 High: \$95.65
VERTICAL COSTS (NEW BUILDING):	Total:	Per Unit:	PSF:	PSF Avg:*
	\$64,524,157	\$322,621	\$287.25	Avg.: \$293.94 Low: \$170.84 High: \$445.21
CONTRACTOR PROFIT (NEW BUILDING):	Total:	Per Unit:	PSF:	PSF Avg:*
	\$11,846,140	\$59,231	\$52.74	Avg.: \$39.36 Low: \$25.01 High: \$60.39
CONSTRUCTION COST (NEW BUILDING):	Total:	Per Unit:	PSF:	PSF Avg:*
	\$106,970,297	\$534,852	\$476.22	Avg.: \$374.13 Low: \$209.45 High: \$510.98

* Cost Average based on 2021 Applicant Cost for New Building.

PROJECT COST:	Total:	\$150,000,000	Per Unit:	\$750,000	PSF:	\$667.78
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FINANCING AND COSTS:

1. HMMF Bonds, LIHTC, and RHRF provide the primary financing support for the Project.
2. \$19,500,000 projected permanent HMMF Bond or senior conventional loan amount (supported by a letter of interest from Hunt Capital Investors).
 - a. Applicant anticipates coverage of no less than 1.49x over a 35-year amortization period at 3.75%.
 - b. Breakeven (1.00x DSR) prompted by: (i) increase in interest rate to 6.98%; (ii) increase in vacancy to 21.33%; or (iii) decrease in average rents to \$1,043 from \$1,261.
3. Recommended award of \$7,633,183 in Federal LIHTC over 10-years and \$7,633,184 over 5-years in State LIHTC.
 - a. Applicant projects a blended investment rate of about \$0.77/LIHTC (supported by a letter of interest from Hunt Capital Partners).
 - b. Anticipated eligible basis of \$146,792,000, 130% DDA boost, and an applicable percentage of 4.00% supports the recommended LIHTC amounts.

EXHIBIT A

- c. The projected layering gap of \$87,775,116 supports the recommended LIHTC amount based on the projected investment rate.
4. \$37,000,000 RHRF Loan to support construction and permanent financing.
- a. \$451,839 projected balance at 55-year maturity; based on annual repayment of 50% of available cash flow after senior debt service at a rate of 0.25%.
5. Construction Costs are higher than the 2021 applicant average for new construction.
- a. Project construction cost of \$476.22 psf vs. the average 2021 applicant cost for new construction of \$374.13 psf.
 - i. Developer attributes higher than average construction costs to the following factors:
 - 1) Additional site work due to the rocky subsurface conditions. The geotechnical soils report recommended over-excavation within the proposed building structure areas by a depth of about 3 feet below the design finished subgrades and backfilling with structural fill materials. The project site has two existing large rock piles which must be removed and built over. Additionally, the project is spread over a larger area with a density of 7 units per acre due to the sloping topography and cut and fill requirements.
 - 2) The project is spread over a larger area due to the sloping topography and cut and fill requirements. The density of the project is 7 units per acre. The project requires costly sitework over a larger area than a project that could have been built with a higher density.
 - 3) The project cost includes a budget for an extension to Fleming Road. An approximate 70' wide Right-of Way roadway for 2,000 - 2,500 lineal feet from the end of Kuku'ia Street to a connection at Fleming Road to provide a secondary access to the project. The roadway will be built to County standards so that it can be dedicated to the County. The 201H exemption approval (Resolution 20-11) requires the developer to use its best efforts to provide a second access to the project. Without a secondary access, the project has only a right-in, right-out access at Keawe Street Extension.
 - 4) The 201H exemption approval (Resolution 20-11) requires a sewer connection along the Kapunakea Street alignment. In order to meet this requirement, the project needed to obtain a sewer easement over a privately held property in order to make a connection to the county sewer system.
 - 5) The project experienced cost increases for labor and materials due to Covid 19.
 - ii. Anticipated contractor's profit, overhead, and general requirements is 12.45% of hard construction costs, in-line with the 14.00% HUD Ceiling Standard.

EXHIBIT A

- b. \$11,890,477 contingency is 11.12% of construction costs and 7.97% of total development costs (less acquisition costs).
 - i. Inclusion of \$1,793,585 Developer's Fee (less overhead and project management) increases contingency to 12.79% of construction costs and 9.17% of total development costs (less acquisition costs).
 - ii. Contingency can absorb a construction cost increase up to \$529.15 psf; including Developer's Fee, up to \$537.14.

DEMAND:

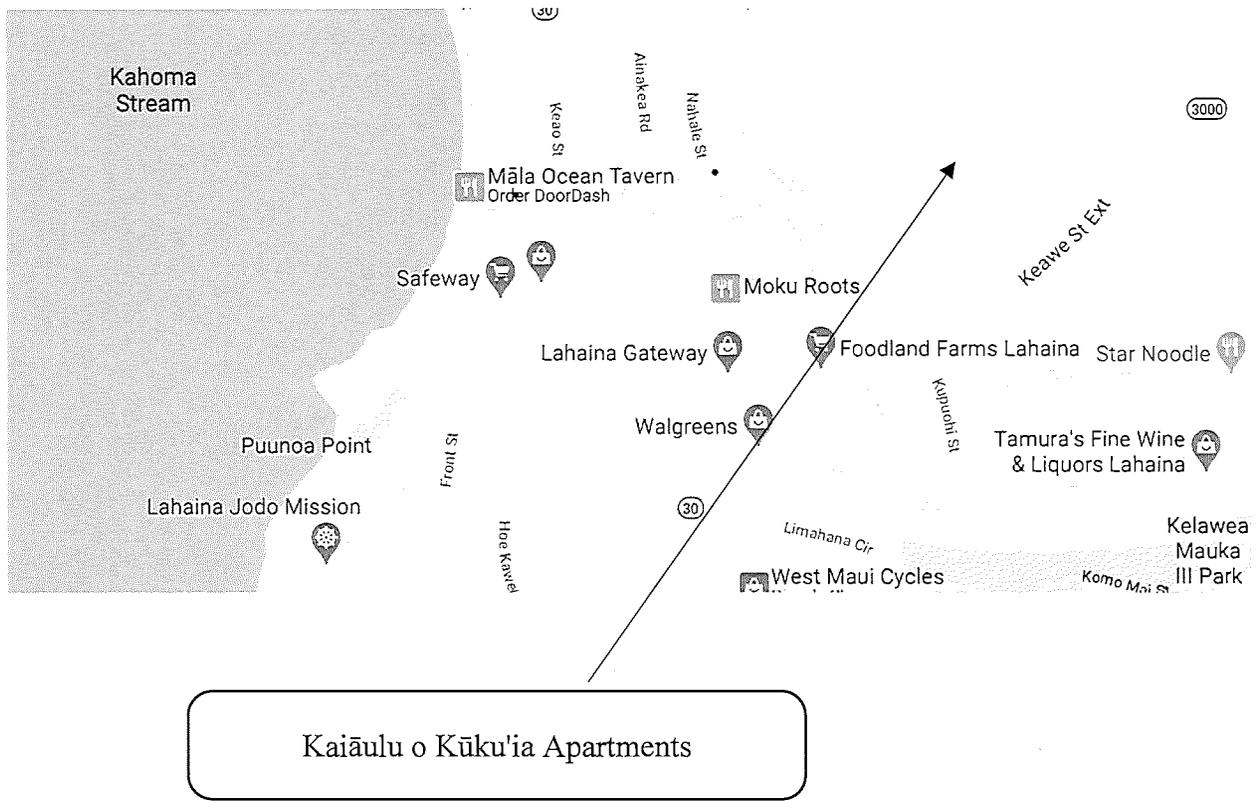
- 1. Market Study submitted in the application indicates satisfactory demand for the project.

FEASIBILITY:

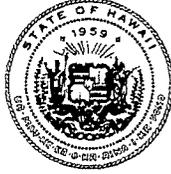
- 1. Project is feasible and the assumptions are reasonable.

PROJECT MAP & PICTURES:

Kaiāulu o Kūku'ia Apartments
Near Keawe Street – part of the Villages of Leiali'i
Lahaina, HI 96761
TMK No.: (2) 4-5-021-041



DAVID Y. IGE
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
FAX: (808) 587-0600

21:FIN/XXXX

November xx, 2021

Mr. Douglas Bigley
A0703 West Maui, L.P.
2000 E. 4th Street, Suite 220
Santa Ana, CA 92705

Dear Mr. Bigley:

Subject: Rental Housing Revolving Fund Project Award Program
Kaiāulu o Kūku'ia Apartments

Your project has been awarded a Rental Housing Revolving Fund loan in an amount not to exceed \$37,000,000 (the "Loan"), subject to the approval of the Governor, the successful negotiation of the final terms and conditions of the award, and the execution of loan documentation satisfactory to the Hawaii Housing Finance and Development Corporation ("HHFDC").

As a preliminary commitment letter, please review the following general terms and conditions:

Award Recipient: A0703 West Maui, L.P.
(Borrower)

Guarantor(s): None

Purpose: To provide interim and permanent financing to assist in the development of a 200-unit (includes 3 manager units) affordable rental project located at Keawe Street – part of the Villages of Leiali'i, Lahaina, Maui, HI 96761; TMK No.: (2) 4-5-021: 041.

Improvements consist of 25 two-story buildings with 8 units in each building and 2 community buildings. Off-site improvements include the construction of a new public road and pedestrian/bicycle pathway which will provide access to and from Keawe Street and a retention basin.

EXHIBIT C

10 units shall be set aside for households with incomes at or below 30% of the area median gross income; 10 units shall be set aside for households with incomes at or below 40% of the area median gross income; 30 units shall be set aside for households with incomes at or below 50% of the area median gross income; and 147 units shall be set aside for households with incomes at or below 60% of the area median gross income. The project will remain affordable for 65 years.

Loan Amount: Up to \$37,000,000 for interim and permanent financing.

This amount may be reduced to the extent that the Award Recipient is able to secure additional funding sources for the development.

Form of Loan: 55-year, junior mortgage loan on the leasehold interest in the project premises, improvements, and chattels.

Interest Rate: 0.00% Years 1 through
0.25% After Year 3

Interest will be calculated on a 365-day year.

Origination Fee: None

Loan Term: 55-Years

Prepayment penalty: None

Payment Terms: Years 1 through 3 - No Payments

After Year 3 - 50% of Available Cash Flow after payment of expenses, senior debt service, and other recognized expenses.

Any accrued interest and outstanding principal shall be due and payable at end of Loan Term.

Security: The Loan is to be secured by the following:

- 1) A valid, ALTA-insured junior mortgage on the Award Recipient's leasehold interest in the subject property, together with all improvements to be constructed;
- 2) A security interest in all furniture, fixtures and equipment owned by the Award Recipient and utilized in the normal occupancy and operation of the subject property;
- 3) An assignment of all project-related documents including, but not limited to, development agreements, plans and specifications, construction, architectural, management contracts, and any other studies, approvals and authorizations, and permits;
- 4) Award Recipient acknowledges that all of Award Recipient's obligations, agreements, and completion of the improvements are the direct obligations of Award Recipient's general partner.

EXHIBIT C

Governor Approval: The preliminary commitment by the HHFDC and the disbursement of funds are subject to approval by the Governor of the State of Hawaii.

Termination of Affordability: Should the project fail to maintain its affordable use during the 65-year affordability period following the funding of the interim/permanent Loan, the full amount of the Loan shall become immediately due and payable. In addition to the principal amount due, as a penalty for the early termination of the mortgage, due to a loss of its "affordable character," the principal amount due the HHFDC will be multiplied by 0.06, then multiplied by the number of remaining years of affordability. This amount will constitute the total amount of the penalty payment due.

Documentation: The HHFDC's participation in the proposed development shall be subject to the completion and execution of documentation mutually acceptable to all parties to the transaction. Such documentation to include standard terms and conditions for transactions of this nature.

Boilerplate Loan documents listed on Exhibit 1 will be provided for your review and finalizing by your counsel. Any changes to these Loan documents must be satisfactory to the HHFDC and the Attorney General and shall be at their sole discretion.

Expenses: All out of pocket expenses shall be the responsibility of the Award Recipient. It is understood and agreed that the Award Recipient shall be responsible for expenses pertaining to any and all transactions contemplated herein and the preparation of any document reasonably required thereunder including, but not limited to, all recording and filing fees, taxes, insurance premiums (including title insurance), inspection fees, insurance review and any surveyors', appraisers' and attorneys' fees. In the event the Loan transaction is not consummated for whatever reason, the Award Recipient will remain responsible for payment of those fees and expenses.

Title Insurance: Upon recordation of the Loan documents, Award Recipient shall provide the HHFDC with an ALTA mortgagee's policy of title insurance, in the full amount of the Loan, issued by a title insurer acceptable to HHFDC, insuring the lien of the mortgage to be a valid junior lien on the leasehold interest in the subject property, subject only to such other liens and encumbrances as may have been approved by the HHFDC, to include survey, mechanics lien and foundation endorsements and other endorsements as HHFDC may reasonably require.

Property and Liability Insurance: Prior to the closing date of the Loan, the Award Recipient must properly insure the subject property and provide the HHFDC with such original policies of insurance including: a broad form insurance policy covering the security, in an amount sufficient to cover 100% of the full replacement value at the time of loss of the security, including all buildings now existing or thereafter constructed; public liability, property damage, rental loss, and other insurance as may be

EXHIBIT C

required by the HHFDC; and including flood insurance, if applicable, in such form and in such amount as may be required by the Federal Flood Disaster Protection Act. All such policies shall name the State of Hawaii and the Hawaii Housing Finance and Development Corporation as insured parties and loss payees and shall be satisfactory to the HHFDC as to amount, effective and expiration dates, form, content, mortgagee's loss payable endorsement, and all other terms, and/or endorsements, specifically including a 30-day written notice of any cancellation of or material change in coverage.

You may procure such insurance from any insurance company authorized to do business in the State of Hawaii. All insurance policies should be delivered to the HHFDC and addressed as follows:

Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

If the Award Recipient uses an "insurance binder" as temporary evidence of insurance coverage, the Award Recipient must provide HHFDC with the original insurance policy prior to the expiration of the binder, but in no event more than 30 days.

Opinion of Counsel:

A written opinion of your legal counsel acceptable to the HHFDC shall be provided to the HHFDC prior to closing and state that:

- 1) The Award Recipient has the power and has been duly authorized to enter into and execute the Loan documents;
- 2) The Loan documents are duly authorized and when executed and delivered, will be valid and legally binding obligations of the Award Recipient;
- 3) Compliance by the Award Recipient with the Loan documents and any other instruments contemplated hereby will not violate any instruments or agreements binding upon the Award Recipient;
- 4) No action of any governmental commission or agency is required in connection with the execution and delivery of the Loan documents or, if required, that the same has been obtained;
- 5) Such other matters as the HHFDC may reasonably request.

Borrowing and Signing Resolution:

The Award Recipient agrees to provide the HHFDC with a borrowing and signing resolution, which shall authorize and ratify the acceptance of this Loan, and identify the individual(s) authorized to execute all documents, agreements and instruments evidencing and/or securing the Loan and perform all obligations thereunder. If the Award Recipient is a partnership, the resolution shall be signed by all of the partnership's general partners and identify the partner(s) authorized to execute all documents. If a corporation, then the resolution shall be authorized by the board of directors and specify the officer(s) authorized to execute all documents.

EXHIBIT C

Organizational Documents:

The Award Recipient shall provide the HHFDC with organizational documents including, but not limited to, validly filed articles of incorporation or certificate of limited partnership, by-laws, partnership agreement and amendments thereto setting forth such terms as the sales price, equity contribution, distributions and all other significant terms and conditions, for the Award Recipient and its constituent entities.

A certificate of good standing for the Award Recipient and its constituent entities dated no earlier than 30 days prior to closing shall be provided to the HHFDC.

A current tax clearance certificate for state and federal taxes for the Award Recipient and its constituent entities shall be provided just prior to the HHFDC's execution of Loan documents.

Financial Statements:

During the term of the Loan, the Award Recipient agrees to provide the HHFDC with such financial and supporting data as the HHFDC may require, in form and content satisfactory to the HHFDC including: Audited financial statements of the Award Recipient on an annual basis within 90 days of year-end, and partnership tax returns annually when filed.

Independent Consultant:

The HHFDC shall have the right to employ, at the Award Recipient's expense, an independent consultant such as an engineer, architect or construction manager, to review and monitor on behalf of the HHFDC. The consultant shall review all construction documents, including construction plans and specifications, construction contracts, contractor's progress schedules and other pertinent documents and submit a written report to the HHFDC as to whether the plans and specifications provide for complete usable facilities which can be constructed within the amount of the construction contract and the project budget and as to the adequacy of the construction schedule. The consultant shall also visit the subject property periodically to review whether the construction is proceeding in accordance with the plans and specifications and construction schedule, to estimate the nature and amount of construction in place and to verify the amount of payment which the contractor is entitled to receive in accordance with the project budget and to verify that materials are stored onsite.

Inspections:

The Award Recipient shall permit the HHFDC or its agents to inspect the property and its records. Such inspections will be made for the HHFDC's sole benefit at such reasonable times as the HHFDC may require and will be at the Award Recipient's expense.

Appraisal:

Prior to the closing of the Loan, the HHFDC must receive an HHFDC-ordered appraisal report (at the Award Recipient's expense) of the fee simple interest in the subject property. The appraisal shall be subject to the satisfactory review of the HHFDC.

EXHIBIT C

Reappraisal:

The HHFDC shall have the right to obtain, at the Award Recipient's expense, reappraisals of the subject property from any certified appraiser designated by the HHFDC, from time to time whenever such reappraisal may be:

- 1) Required by law, rule or procedure; or
- 2) When reasonably deemed appropriate by the HHFDC.

ALTA Survey

Prior to closing of the Loan, the Award Recipient shall provide an ALTA survey of the subject property prepared by a professional land surveyor registered with the State of Hawaii, showing thereon the perimeter of the subject property, all easements affecting the property, the location of the improvements to be built on the property, any other matters of record affecting the property, and such other matters as may be required by the title insurance company together with a written certification by the surveyor that all setback requirements have been complied with and that there are no encroachments by or on the subject property.

*Financing
Commitments:*

The Award Recipient shall provide to the HHFDC binding interim construction financing commitments in an aggregate amount sufficient to meet the Project's total development costs, which shall include, but not limited to:

- 1) Low Income Housing Tax Credit Equity for no less than \$21,067,585;
- 2) HMMF Bond Investment for no less than \$36,900,000;
- 3) Deferred Developer Fee for no less than \$7,206,415; and
- 4) Other Deferred Costs for no less than \$1,201,000.

Binding permanent financing commitments for:

- 1) Low Income Housing Tax Credit Equity for no less than \$87,775,116;
- 2) HMMF Bond Investment or other Senior Financing for no less than \$37,000,000
- 3) Deferred Developer Fee for no less than \$5,724,884.

Closing and funding of the RHRF Project Award is contingent upon the Award Recipient securing and evidencing sufficient financing sources to meet the Projects total development costs to the satisfaction of HHFDC.

Such commitments shall be in form and content satisfactory to the HHFDC and shall set forth such terms as the amount of the commitment, the interest rate, term, and other terms and conditions of the loans. The commitments may need to be assigned to the HHFDC as determined by HHFDC and, as such, may need to include satisfactory assignment language. The terms and conditions of this preliminary commitment letter are subject to change, modification, or additions depending on the terms and conditions of the other commitment letters.

Environmental Examination and Covenants:

Prior to the closing of the Loan, the Award Recipient shall furnish the HHFDC with the completed Environmental Questionnaire. If such written statement appears insufficient for the HHFDC's reliance or leads the HHFDC to believe that environmental contamination may have resulted or may result from a prior or current use of the property, the Award Recipient may have to obtain an environmental examination or audit, at its expense, to be made of the property, by an environmental engineer acceptable to the HHFDC. The HHFDC may decline the Loan if such examination reveals the existence or prospect of environmentally hazardous materials in amounts or of a nature unacceptable to the HHFDC. The Loan documents will provide for your indemnification of the HHFDC against all liabilities, costs, etc., incurred by the HHFDC as a result of any violation of any environmental laws as a result of any "clean up" of environmentally hazardous materials or conditions in respect of the property to be mortgaged to the HHFDC.

Loan Agreement:

The disbursement of Loan proceeds will be governed by a Loan Agreement containing warranties by the Award Recipient, conditions of the HHFDC's obligations, covenants relating to construction procedures and Loan disbursements, requirements for payment of project costs, requirements for performance and payment bonds, prohibition against junior liens and security interests, rights of inspection, rights to employ an independent architect or engineer at the HHFDC's request, requirement for completion surveys, remedies on default and such other covenants and provisions as the HHFDC may require, or as are customarily incorporated in similar agreements by prudent lenders:

- 1) Each disbursement request shall be accompanied by an updated budget and partial lien releases or lien waivers and receipt bills showing to the HHFDC's satisfaction that all remaining budgeted costs are covered either by the remaining undisbursed Loan proceeds or other funding sources already committed;
- 2) Updated endorsements from insuring title company;
- 3) Written report of engineer as to the progress of the work, and the cost to complete, said report to be satisfactory to the HHFDC;
- 4) In general, disbursements on the construction will be made on the basis of the value of the work in place and the costs of materials delivered to the site and adequately stored and insured, less 5% retainage.

Compliance with Applicable Laws:

The Award Recipient shall submit to the HHFDC, evidence satisfactory to the HHFDC, that all applicable laws, regulations, including the Americans with Disabilities Act and any other applicable environmental laws and regulations, covenants, conditions, governmental approvals and permits for the use and operation of the property and improvements thereon have been obtained.

Complete Agreement:

This preliminary commitment letter constitutes the agreements between the Award Recipient and the HHFDC relating to the Loan

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and the subject property, and supersedes all other prior or current letters, agreements, understandings, negotiations or warranties (whether written or oral). No variation or amendment to this preliminary commitment letter shall be valid or enforceable without the approval of the Award Recipient and the HHFDC set forth in writing specifically referring to this preliminary commitment letter.

Regulatory Requirements:

This preliminary commitment letter and the HHFDC's obligations thereunder are subject to all laws and governmental regulations affecting the HHFDC's ability to make the Loan upon the terms and conditions set forth in this letter. If the HHFDC is unable under said laws and regulations to make the Loan upon such terms and conditions, then the HHFDC may terminate this preliminary commitment letter and its obligations thereunder without any liability to the Award Recipient.

Specific Conditions:

The following documents, among others, are to be provided to the HHFDC prior to closing and funding of the Loan:

- 1) All partnership or venture documents;
- 2) A satisfactory Phase One environmental report;
- 3) Copies of all plans and specifications for the improvements and proposed work, together with a copy of the general construction contract(s) covering all of the improvements and proposed work, and copies of each major subcontract or material supply contract relating to the improvements and proposed work ("major" shall include all those having contract prices in excess of \$250,000) and a copy of all architect's and engineer's contracts relating to the improvements and proposed work;
- 4) A 100% performance bond and a 100% payment bond covering the obligations of the general contractor(s), issued by a surety doing business in Hawaii, which bonds shall contain riders in form and content satisfactory to the HHFDC naming the Award Recipient and the HHFDC as obligees. Expiration of performance bond will not be less than one year following substantial completion;
- 5) Satisfactory evidence that all consents, permits and approvals from the governmental authorities required or advisable in connection with the construction of the improvements and proposed work have been obtained by the Award Recipient;
- 6) A detailed budget of the overall cost of construction of improvements and proposed work, including construction costs, building equipment costs, other on-site and off-site improvement costs, costs of furnishing and fixtures, financing costs, legal expenses, design fees, appraisal costs, and all other related costs directly attributable to the improvements or proposed work;
- 7) A detailed cash-flow schedule of Borrower's sources-and-uses of funds, evidencing to the HHFDC satisfaction that all of the improvements and proposed work can be completed in a timely manner with proceeds from the Loan and other funding

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sources, and that there are sufficient proceeds to adequately make all payments when due on the Loan and all other construction costs, carrying charges and all other costs shown on the budget referred to above setting forth a schedule of disbursement of proceeds and payment of the costs shown on said budget;

- 8) Letters from the Award Recipient's architect, engineer and general contractor, in form and content satisfactory to the HHFDC, containing among other things, the architect's, engineer's and contractor's consents to the assignment of their contracts to the HHFDC as security for the Loan, their agreement to continue performance under their contracts if requested by the HHFDC, and the subordination of all of their lien rights to the Loan and the HHFDC's Loan documents;
- 9) The HHFDC reserves the right to obtain a construction cost analysis report (verifying cost to complete) prepared by an independent third party consultant acceptable to the HHFDC and paid by the Award Recipient;
- 10) Such other items as may be described in the Loan Agreement referred to above.

Other Terms:

In addition, the Award Recipient shall provide and/or comply with the following prior to closing and disbursement of funds:

- 1) The receipt and approval by the HHFDC of the project's final construction drawings and specifications showing all revisions;
- 2) Receipt and staff's satisfactory review and approval of the Uniform Standards of Professional Appraisal Practice (USPAP) appraisal (ordered by HHFDC, paid by Award Recipient);
- 3) Final plans and specifications being reviewed by the State's Disabilities and Communication Access Board (DCAB) and the HHFDC's receipt of the DCAB's "Final Document Review Letter" indicating that the documents appear to meet the requirements of the American with Disabilities Act Accessibility Guidelines (ADAAG) and the Fair Housing Act;
- 4) The project shall comply with the requirements of all municipal, state and federal authorities and observe all municipal, state and federal laws including, but not limited to, Chapter 343, Hawaii Revised Statutes (HRS) relating to environmental impact statements; Chapter 103-50, HRS, relating to accessibility requirements; Chapter 103D, HRS, relating to Hawaii Public Procurement Code; Chapter 104, HRS, relating to wage and hour requirements applicable to the project and the use of State funds;
- 5) Satisfactory review and approval of all aspects of the project by the HHFDC and, if necessary, independent experts;
- 6) Award Recipient must obtain all necessary loans, grants, and leases from the applicable entities in order to fulfill the purpose of this Loan;
- 7) Receipt by the HHFDC of evidence satisfactory to the HHFDC that the sources of permanent financing are sufficient;

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- 8) Delivery and execution by the Award Recipient, and HHFDC approval, of the items enumerated on the checklist prior to closing and funding of the Loan (Exhibit 1);
- 9) The Award Recipient consulting with the HHFDC and receiving prior written approval of the Executive Director to effectuate any changes to the project as proposed;
- 10) Applicant must evidence debt service coverage satisfactory to HHFDC based on the financing sources needed to meet the Project's total development costs;
- 11) The Project's total loan to value ratio shall not exceed 100%;
- 12) Total fees paid to the Developer, including, but not limited to, Developer Overhead, Developer Fees, Consultant Fees, and Project management Fees, for the project shall not exceed \$9,500,000.
- 13) No disbursement of Developer's Fee until satisfactory completion of the Project;
- 14) The RHRF Project Award is subject to the availability of funds;
- 15) Other terms and conditions to be mutually acceptable to all parties involved with the transaction.

Loan Closing: The loan is to be closed and recorded no later than April 30, 2022. In the event that the loan is not closed and recorded by said date, the HHFDC shall have the right to terminate this commitment and all of its obligations under, or the option to consider extending the closing date subject to such amended terms and conditions as it shall deem appropriate in its sole judgment.

Commitment Fee: None

Expiration: The terms outlined in this letter will expire on December 31, 2021, at 4:00 p.m. unless the HHFDC receives an executed copy by said date. The HHFDC and the Award Recipient agree to work in good-faith to complete all the necessary documentation satisfactory to all parties.

The Award Recipient shall defend, indemnify, and hold harmless the State of Hawaii, the HHFDC, its directors, advisory commissioners, officers, employees, agents, its successors and assigns, from and against all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, and expenses including attorney's fees, arising out of or in connection with the development of the project including, but not limited to, construction of the improvements, leasing of the project and/or use, occupation or operation of any of the property to be encumbered by the mortgage.

As previously mentioned, the above-referenced items represent the general terms of the Loan. The specific terms and conditions will be negotiated and incorporated into the final documents for execution.

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Please sign and return the original preliminary commitment letter and maintain a copy for your files.

Sincerely,

Denise Iseri-Matsubara
Executive Director

ACKNOWLEDGED AND ACCEPTED:

By: _____

Its: _____

Date: _____

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION (HHFDC)
RENTAL HOUSING TRUST FUND PROJECT AWARD PROGRAM

I. BASIC MILESTONES

These milestones must be achieved by the expiration date stated in the preliminary commitment letter. If the Award Recipient is not able to meet these milestones, then the preliminary commitment letter may be withdrawn without any further consideration or action by the HHFDC.

1. Evidence of site control and development rights to the property.
2. Evidence of all necessary zoning, or exemptions or variances thereto, to complete the project as proposed.
3. Evidence of all sources of financing to complete the project. Applicants shall provide commitment letters or letters of intent from all sources of financing.

II. PRELIMINARY DEVELOPER CHECKLIST

Developer shall provide the following to the HHFDC for approval in order to close the loan and receive funding:

1. Evidence of site control and development rights to the property (recorded conveyance documents)	<input type="checkbox"/> Received	
2. Lessor's Consent to Mortgage	<input type="checkbox"/> Received	
3. Lessor's Estoppel Certificate	<input type="checkbox"/> Received	
4. Evidence of all necessary zoning, or exemptions or variances thereto, to complete the project as proposed (201H approval, permits)	<input type="checkbox"/> Received	
5. Evidence of all sources of construction and permanent financing to develop the project (commitment letters from all sources of financing)	<input type="checkbox"/> Received	
6. Articles of Incorporation (Award Recipient and constituent entities)	<input type="checkbox"/> Received	
7. By Laws (Award Recipient and constituent entities)	<input type="checkbox"/> Received	
8. Certificate of Limited Partnership	<input type="checkbox"/> Received	
9. Partnership agreement and Amendments	<input type="checkbox"/> Received	
10. Borrowing and Signing Resolution (original) (Award Recipient and constituent entities)	<input type="checkbox"/> Received	
11. Certificate of Good Standing (original) – dated no longer than 30 days prior to closing (Award Recipient and constituent entities)	<input type="checkbox"/> Received	
12. State and Federal Tax Clearance Certificate for Award Recipient – provide just prior to HHFDC's execution of loan documents (original/certified) (Award Recipient and constituent entities)	<input type="checkbox"/> Received	
13. Certificate of Compliance with Section 3-111-112, HAR from the State of Hawaii – Department of Labor and Industrial Relations (original/certified) – dated no longer than 30 days prior to closing (Award Recipient and constituent entities)	<input type="checkbox"/> Received	
14. State and Federal Tax Clearance Certificate for General Contractor	<input type="checkbox"/> Received	
15. Attorney's Opinion Letter (original)	<input type="checkbox"/> Received	
16. Finding of No Significant Impact	<input type="checkbox"/> Received	
17. Environmental Questionnaire	<input type="checkbox"/> Received	
18. Phase I Environmental Site Assessment	<input type="checkbox"/> Received	

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19. Project Budget – 2 copies	<input type="checkbox"/> Received	
20. Project Sources and Uses – 2 copies	<input type="checkbox"/> Received	
21. Construction Cash Flow Forecast – 2 copies	<input type="checkbox"/> Received	
22. Project Schedule – 2 copies	<input type="checkbox"/> Received	
23. Operating Budget	<input type="checkbox"/> Received	
24. ALTA Survey	<input type="checkbox"/> Received	
25. Soils Test Report	<input type="checkbox"/> Received	
26. USPAP Appraisal	<input type="checkbox"/> Received	
27. Market Study	<input type="checkbox"/> Received	
28. Detailed Plans and Specifications	<input type="checkbox"/> Received	
29. Approval from the Disability and Communication Access Board (DCAB)	<input type="checkbox"/> Received	
30. Construction Contract and Amendments – 2 copies	<input type="checkbox"/> Received	
31. Construction Contract Documents– Plans and Specifications	<input type="checkbox"/> Received	
32. Architect Contract – 2 copies	<input type="checkbox"/> Received	
33. Engineer Contract – 2 copies	<input type="checkbox"/> Received	
34. Major Subcontracts or Material Supply Contracts (in excess of \$250,000)	<input type="checkbox"/> Received	
35. List of Subcontractors and Materialmen	<input type="checkbox"/> Received	
36. Subdivision Approval	<input type="checkbox"/> Received	
37. Evidence of Access to Public Roads	<input type="checkbox"/> Received	
38. Easements for Utilities and Authorities	<input type="checkbox"/> Received	
39. Evidence of Water Availability	<input type="checkbox"/> Received	
40. Grading Permit – 2 copies	<input type="checkbox"/> Received	
41. Building Permit – 2 copies	<input type="checkbox"/> Received	
42. Copies of Loan Agreements with other financing sources	<input type="checkbox"/> Received	
43. Property (all-risk) Insurance Policy including rental loss coverage (naming, as loss payees, the (i) State of Hawaii and (ii) Hawaii Housing Finance and Development Corporation)	<input type="checkbox"/> Received	
44. Liability Insurance Policy (naming as additional insured, the (i) State of Hawaii and (ii) Hawaii Housing Finance and Development Corporation)	<input type="checkbox"/> Received	
45. Set Aside Letter	<input type="checkbox"/> Received	
46. 100% Performance and 100% Payment Bond (surety company acceptable to HHFDC)	<input type="checkbox"/> Received	
47. Preliminary Title Report	<input type="checkbox"/> Received	
48. ALTA Mortgagee's Policy of Title Insurance (to include survey and foundation endorsements; and if construction has commenced, endorsement against mechanics' and materialmen's liens)	<input type="checkbox"/> Received	

Loan Documents:

1. Certification as to any self-dealings, related parties or identity of interests	<input type="checkbox"/> Received	
2. Promissory Note (executed)	<input type="checkbox"/> Received	
3. Mortgage, Security Agreement and Financing Statement (executed and recorded)	<input type="checkbox"/> Received	
4. Building Loan Agreement (executed)	<input type="checkbox"/> Received	
5. Assignment of Leases and Rents (executed and recorded)	<input type="checkbox"/> Received	
6. Declaration of Restrictive Covenants (executed)	<input type="checkbox"/> Received	
7. Hazardous Materials Agreement (executed)	<input type="checkbox"/> Received	
8. Monitoring Agreement (executed)	<input type="checkbox"/> Received	
9. Assignment of Construction Contract (executed)	<input type="checkbox"/> Received	
10. Assignment of Architect Contract (executed)	<input type="checkbox"/> Received	

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11. Assignment of Engineer Contract (executed)	<input type="checkbox"/> Received	
12. Contractor's Letter (executed)	<input type="checkbox"/> Received	
13. Architect's Letter (executed)	<input type="checkbox"/> Received	
14. Engineer's Letter (executed)	<input type="checkbox"/> Received	

REQUIREMENTS UPON CONSTRUCTION COMPLETION

Developer shall provide the following:

Final Project Cost Certification Audit	<input type="checkbox"/> Received	
State and Federal Tax Clearance Certificate	<input type="checkbox"/> Received	
Certificate of Substantial Completion	<input type="checkbox"/> Received	
Certificate of Occupancy	<input type="checkbox"/> Received	